

FILED UNDER SEAL
MEMORANDUM IN SUPPORT OF
MOTION TO SUBSTITUTE COUNSEL

1. On March 25, 2013, after Mr. Powell's state capital conviction was final, this Court appointed the Office of the Federal Public Defender for the District of Delaware (Delaware FPD) to represent Mr. Powell in federal capital habeas proceedings. D. I. 1, 4. Ultimately, the federal matter was stayed pending the results of initial state post-conviction proceedings. D. I. 10.

2. In 2016, the Supreme Court of Delaware ruled that the Delaware death penalty was unconstitutional. *Rauf v. Delaware*, 145 A.3d 430 (Del. 2016). In December 2016, the Delaware Supreme Court ruled that its holding in *Rauf* applied retroactively. *Powell v. State*, 153 A.3d 69 (Del. 2016). As a result, Mr. Powell's capital sentence was vacated and he was resentenced to life without the possibility of parole. On October 27, 2017, the Delaware Supreme denied Mr. Powell's remaining guilt phase claims, and the Mandate issued on November 14, 2017. Mr. Powell has until November 2018 to file a timely habeas petition with this Court in accordance with the Antiterrorism and Effective Death Penalty Act.

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. As a result, the Federal Public Defender conferred with the Federal Community Defender Office for the Eastern District of Pennsylvania (FCDO) who is willing to accept appointment to Mr. Powell's case.

6. Undersigned counsel has communicated with Elizabeth McFarland, Chief Deputy Attorney General with the Delaware Department of Justice, regarding the motion to replace counsel. Ms. McFarland represented that the State has no objection to this Court granting the request.

WHEREFORE, Tiffani D. Hurst, First Assistant Federal Public Defender for the District of Delaware, respectfully requests that this Court grant the instant motion, and enter an order allowing the substitution of counsel.

Respectfully submitted,

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Federal Public Defender

By: /s/ Tiffani D. Hurst.
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